

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN DUANE GRIMES**, on March 14, 2003 at 8:00 A.M., in Room 303 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Duane Grimes, Chairman (R)  
Sen. Dan McGee, Vice Chairman (R)  
Sen. Aubyn Curtiss (R)  
Sen. Jeff Mangan (D)  
Sen. Jerry O'Neil (R)  
Sen. Gerald Pease (D)  
Sen. Gary L. Perry (R)  
Sen. Mike Wheat (D)

**Members Excused:** Sen. Brent R. Cromley (D)

**Members Absent:** None.

**Staff Present:** Valencia Lane, Legislative Branch  
Cindy Peterson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 127, 3/5/2003; HB 578, 3/5/2003;  
HB 618, 3/5/2003  
Executive Action: HB 197; HB 578; HB 211; HB 222; HB  
224; HB 350; HB 402; HB 478

**EXECUTIVE ACTION ON HB 197**

**Motion:** SEN. McGEE moved HB 197 BE INDEFINITELY POSTPONED.

**Discussion:**

**SEN. JEFF MANGAN** asked if the purpose of indefinitely postponing the bill is to come back to address the bill later.

**SEN. McGEE** replied he would prefer to leave the bill indefinitely postponed.

**CHAIRMAN GRIMES** agreed, unless they could come up with alternatives and feels having someone with 18 plus points go into a database is troubling, but on the other hand feels there ought to be a way to let private operators conduct some of the programs.

**SEN. MIKE WHEAT** stated the solution is to find some seed money to get the program up and running until it can become self sustaining.

**CHAIRMAN GRIMES** suggested kicking the bill out and sending it to Finance and Claims to find money. This is language already on the books.

**SEN. WHEAT** reminded the Committee the bill is here because it was mandated, but there is no money to get the program running. If the bill passes, the law would be repealed.

**SEN. MANGAN** opposes the motion to indefinitely postpone for two reasons: The bill will not repeal the program, but will make it permissive, so the department can proceed if they get the money. Second, with the recent budget cuts, this branch is looking at ways to save money and cut staff. It would be a mistake to indefinitely postpone the bill because of the first section. The testimony regarding the other sections of the bill will assist the department in running the program with its current staff.

**SEN. MANGAN** feels it is a mistake to kill the bill because of the first section. The Legislature has been asking agencies to come up with ideas to make their agencies work under budget cuts.

**SEN. AUBYN CURTISS** added it appears there are several entities capable of providing these services. The hangup was in the fact the department could not come up with a way to certify the operation of those facilities. It is obvious to **SEN. CURTISS** that they should give the department the go ahead to come up with a way to certify these entities. **Ms. Nordland** testified that 553

persons would have to pay the fee before they would cross the line of being economically stable.

**SEN. McGEE** stated that is 553 people who are offenders, but there are thousands of people who are over 18 points. There are plenty of people to generate the revenue, it is an administrative problem with the department. **SEN. McGEE** feels some innovative thinking could put this over the top. The revenue will be there, and is probably already there.

**SEN. MANGAN** stated if that is the case, he will make a motion to change the one word on page 1, line 26, from "may" back to "shall" and the bill can go to Finance and Claims to determine whether the money is there. This will keep the other two parts of the bill in tact, would also maintain Senator Grosfield's intention for the driving program, and give the this Legislature the ability to look into specific details.

**CHAIRMAN GRIMES** stated the due process issues cannot exist where people are not given proper notice and, therefore, are getting off.

**SEN. WHEAT** agrees with **SEN. MANGAN**. **SEN. WHEAT** believes **Ms. Nordland** when she says this is causing problems. **SEN. WHEAT** agrees with changing "may" to "shall" on page 1, kicking out the bill, and letting Finance and Claims figure out the money portion.

**Vote:** **SEN. McGEE's** motion that **HB 197 BE INDEFINITELY POSTPONED** carried 5-4 with Sens. Mangan, Pease, and Wheat voting no, and Sen. Cromley voting no by proxy.

#### EXECUTIVE ACTION ON HB 211

**Motion:** **SEN. GERALD PEASE** moved **HB 211 BE CONCURRED IN**.

**CHAIRMAN GRIMES** distributed a case summary of the George decision, **EXHIBIT(jus54a01)**, and information he received from the Department of Corrections (DOC), **EXHIBIT(jus54a02)**, which echoed the concerns of **SEN. McGEE** and stated if a tribal member did not have a certain tribal member with knowledge before them, it would cause problems. **SEN. McGEE's** recommendation to strike all the amended language on lines 24 through 26 and then adopt **SEN. PEASE's** amendment would solve the problem. The problem could be solved through rulemaking, and **CHAIRMAN GRIMES** feels putting the language in code creates potential problems. The amendment by **SEN. PEASE** would solve most of the problems.

**Motion:** SEN. McGEE moved Amendment HB021102.agp BE ADOPTED, EXHIBIT(jus54a03).

**Discussion:** SEN. WHEAT stated that when SEN. BRENT CROMLEY gave him his proxy, he also gave him some substitute language, EXHIBIT(jus54a04).

CHAIRMAN GRIMES explained SEN. CROMLEY's amendment states that Section 2-15-108 should be followed regarding gender and minority balances.

SEN. PEASE did not believe the language added on in the House addressed the intentions of the bill. He understands SEN. McGEE's intentions and is well aware of the consequences if the bill is not worded differently. Therefore, SEN. PEASE is comfortable with SEN. McGEE's proposed amendment, providing he can add his own amendment. In addition, SEN. PEASE stated he could live with SEN. CROMLEY's proposed amendment.

SEN. GARY PERRY asked for clarification on the amendment.

SEN. McGEE explained his motion to strike the language on page 1, line 24, beginning with "IN ORDER TO COMPLY WITH" through line 26, ending with "MONTANA." A corresponding change will also be made in the title. This is amendment HB021102.agp.

**Vote:** SEN. McGEE's motion that Amendment HB021102.agp BE ADOPTED carried UNANIMOUSLY.

Ms. Valencia Lane explained that the two remaining proposed amendments, proposed by SEN. PEASE and SEN. CROMLEY are not mutually exclusive and go into different places. SEN. CROMLEY's amendment would go on page 1, as substitute language for the language which was just stricken by Amendment HB021102.agp. SEN. PEASE's amendment would be on page 6, line 16, and would go into 46-23-218 which is the rulemaking authority for the board and would indicate a finding on the part of the Legislature regarding inclusions of American Indians and why it is important the rules address training for members in American Indian culture and problems.

CHAIRMAN GRIMES explained the amendment would show the Legislature's intent to restrict it and to respect the Native American Community solely.

**Motion:** SEN. MANGAN moved HB 211 BE CONCURRED IN AS AMENDED.

**Motion:** SEN. PEASE moved SEN. CROMLEY's proposed amendment **BE ADOPTED**.

**Discussion:**

**Ms. Lane** requested permission, if the amendment is adopted, to put it into proper bill drafting form.

**SEN. McGEE** feels the amendment is redundant in the sense that Section 2-15-108 already says and appointments to any boards from the executive must follow this procedure. **SEN. McGEE** feels the amendment is superfluous.

**CHAIRMAN GRIMES** is worried that even though this is redundant in code, by its inclusion, that they would think there is no other plausible reason for its inclusion other than that we have minorities able to appear before like members on the board.

**Ms. Lane** could not say definitely one way or another whether this language would cause the same kind of problems as the George case. It seemed to her it should not, and if that argument were to be made, it would not be a good argument. She agreed with **SEN. McGEE** that the language is redundant in the sense that 2-15-108 already exists and applies to all kinds of boards. **Ms. Lane** did not think it would be harmful to place the language in this particular statute.

**SEN. McGEE** stated that a lot of the issues in the George decision would be handled by the fact that everyone, the three regular members and the four auxiliary members, go through training. Instead of having one person with particular knowledge, they will all have training.

*(Tape : 1; Side : B)*

**SEN. McGEE** does not think this language is needed, and he believes the issue of George will go away with the training.

**SEN. PEASE** withdrew his motion since Ms. Lane agreed the language is redundant.

**SEN. WHEAT** likes **SEN. PEASE's** amendment and agrees with **SEN. McGEE** that the amendment is redundant. Something like this could be put in by a conference committee.

**CHAIRMAN GRIMES** agreed that this would be a good thing to take to a conference committee.

**Motion:** SEN. PEASE moved Amendment HB021103.agp BE ADOPTED, EXHIBIT(jus54a05).

**Discussion:**

SEN. MCGEE quoted from the Montana Constitution, Article X, Section 2. SEN. MCGEE stated the amendment will expand that concept from an educational realm to a corrections realm. SEN. MCGEE stated the first sentence in the amendment regarding the disproportionate percentage of inmates could change in the future. SEN. MCGEE will oppose the amendment because he does not believe the Montana Constitution is referring to this particular arena.

SEN. PERRY pointed out that everything in the law can change. SEN. PERRY suggested striking "Because the Montana constitution recognizes the unique cultural heritage of the American Indians," and beginning the sentence with "The training of board members". The addition of this amendment then would be simply a recognition of fact.

SEN. JERRY O'NEIL at first thought the amendment was good since it put into statute the intent. On further reflection, SEN. O'NEIL stated the intent is not included in other statutes. He believes it is good that the amendment is before the Committee, so the Committee can state why it is they want the board members trained in Native American culture. He feels this is a policy not followed in the past, and wonders if it will be continued in the future. If the policy is followed in the future, the Code will be much larger than it is currently. He agrees with the statement, but does not believe it needs to be in the code.

SEN. MANGAN explained that SB 239 contains a new section providing for legislative intent. The constitution does recognize the value of American Indian culture. SEN. MANGAN feels it is a good amendment and will not hurt anybody to include this language. SEN. MANGAN hopes, at some point, the language will no longer be appropriate, and the Legislature will have to remove it.

SEN. WHEAT stated every time the Supreme Court has to interpret a statute, they search for the legislative intent. Therefore, there is nothing wrong with placing legislative intent into the body of a piece of legislation. SEN. WHEAT likes SEN. PERRY's suggested amendment because it takes care of SEN. MCGEE's problems, does not change the intent of what SEN. PEASE is trying to accomplish, and he encouraged SEN. PEASE to adopt the amendment as suggested by SEN. PERRY.

**SEN. MCGEE** stated he will support **SEN. PEASE's** amendment with **SEN. PERRY's** suggestion.

In addressing **SEN. O'NEIL's** concern, **SEN. PEASE** wanted to show the courts and people that this body looked at this and states the intentions.

In considering **SEN. PERRY's** suggestion, he would agree to removal of that language as long as Native Americans who are incarcerated are addressed.

**CHAIRMAN GRIMES** directed the Committee to consider the language "Because the Montana Constitution recognizes the unique cultural heritage of the American Indians," struck from Amendment HB021103.agp.

**Vote:** The motion of **SEN. PEASE** that HB021103.agp BE ADOPTED carried UNANIMOUSLY.

**Motion:** **SEN. MCGEE** moved HB 211 BE CONCURRED IN AS AMENDED.

**Vote:** **SEN. MCGEE's** motion HB 211 BE CONCURRED IN AS AMENDED carried UNANIMOUSLY. **SEN. MCGEE** will carry the bill on the Senate floor.

#### **EXECUTIVE ACTION ON HB 222**

**Motion:** **SEN. MCGEE** moved HB 222.

#### **Discussion:**

**SEN. WHEAT** reminded the Committee that HB 222 needed coordination language with HB 29.

**CHAIRMAN GRIMES** stated the intent of HB 29 was the incarceration time is reduced, but not the sentence. HB 222 does the same thing and **CHAIRMAN GRIMES** wanted to see conceptual language put in HB 222 to make it trump HB 29.

**Motion:** **CHAIRMAN GRIMES** moved that coordination language to HB 222 BE ADOPTED and that amendment will be provided by **Ms. Lane**.

**Vote:** **CHAIRMAN GRIMES's** motion that coordination language to HB 222 BE ADOPTED carried UNANIMOUSLY.

**Motion:** **SEN. MCGEE** moved HB 222 BE CONCURRED IN AS AMENDED. **CHAIRMAN GRIMES** will carry HB 222 on the Senate floor.

#### **EXECUTIVE ACTION ON HB 224**

**Motion:** SEN. O'NEIL moved DO CONCUR on HB 224.

**Discussion:**

SEN. MCGEE stated he is very concerned about what the Supreme Court may be trying to do, but he has discussed the matter with representatives of the Montana Association of Counties (MACO) and they are in agreement with HB 224 since the language utilizes "may."

CHAIRMAN GRIMES remembered there was a suggestion for an amendment on line 24 saying it would be reviewed and the court may assume costs later on. CHAIRMAN GRIMES thinks that amendment is unnecessary since it will happen anyway.

SEN. WHEAT suggested including a sunset on the bill. This will allow time to determine how it is working.

CHAIRMAN GRIMES warned the Code Commissioner is frowning on the use of sunsets provisions.

**Vote:** SEN. O'NEIL's motion to DO CONCUR on HB 224 carried with Sen. Wheat voting no and Sen. Cromley voting no by proxy. SEN. O'NEIL will carry the bill on the Senate floor.

*(Tape : 2; Side : A)*

**HEARING ON HB 127**

**Sponsor:** Rep. Nancy Rice Fritz, HD 69, Missoula.

**Proponents:** Cort Jensen, Montana Office of Consumer Protection

**Opponents:** None.

**Opening Statement by Sponsor:**

Rep. Fritz opened the Montana Unfair Trade Practice and Consumer Protection Act of 1973 has helped the consumers and businesses of Montana for the last 30 years. While the law still works beautifully, some of the penalties, language, and concepts needed touching up. This bill will clarify and revitalize the law, bringing it up to date and up to speed for the year 2003 and beyond.



**Proponents' Testimony:****Cort Jensen, attorney for the Montana Office of Consumer**

**Protection**, stated the goal originally had five major points, two of which were amended out because telemarketing was addressed by another bill, and the lemon law had its own bill. The three remaining areas include general expansion of the Consumer Protection Law, revisions to the Unfair Trade Act, which is Montana's state-based antitrust law, and to the Personal Solicitation Act, which is the door-to-door act. The bill will apply to door-to-door transactions that occur to small businesses, as long as the transaction is under \$5,000.

The bill provides a definition of the word "consumer" and does away with the definition of "national advertising," which was based on 1970 standard where states could not regulate national advertising.

The second section of the bill will clarify that the State Auditor's Office has jurisdiction over insurance and securities law. Under current law, some businesses were doubly regulated by two different sets of consumer protection codes and two different sets of anti-trust codes. This was causing conflict and loss of clarity between two offices.

The bill will require newspaper publishers to be responsible for the ads they run, if they know those ads are fraudulent. In the past, newspapers not only had to know the ads were fraudulent, but personally benefit from the fraud.

The bill also provides for injunction hearings before a judge to be held in Lewis and Clark County. Since **Mr. Jensen** is the only attorney for the office, and cases have to be brought in the county where the business is primarily located. The farther away from Helena you are, the less likely to get the injunction. Therefore, Helena businesses are disproportionately affected, while businesses and individuals in eastern Montana have less protection since it is hard to justify the expense of travel. The investigation would still occur in the county where the business is located.

When a private case under consumer protection law is brought, the judge can restore fairness and compensate the consumer. However, when the state brings a like case, the judge does not have that discretion. HB 127 will allow the judge to have that same discretion as in private cases.

The bill will also allow a consumer to bring a case in justice court, as well as district court. Because the filing fees were

so high in district court, they were often higher than a potential award. If the amount falls within the limits of justice court, a person would be able to file an action in that venue.

Penalties would be increased for intentional and fraudulent portions of consumer protection law. Ms. Jensen explained there are three times a person can get fined for consumer protection violation. One is if his office has entered an injunction approved by a judge. The other two times are when an act has been done willfully and knowingly. The current fines were below federal standards so was increased to match federal standards and fines in neighboring states. The Unfair Trade Act is Montana state antitrust law, which is when businesses attempt to defeat free enterprise by lying about prices and predatory pricing below cost, and interfering with a contract of another business are all examples of antitrust law violations. Under the current law, all the duties under the Consumer Protection Act were discretionary, but the duties under the Unfair Trade Act were mandatory. Therefore, resources were disproportionate between Unfair Trade Act violations and Consumer Protection Act violations. The law also had archaic language which was removed. Current law required a cost survey to be performed if ten people requested it. However, there was not enough staffing to accomplish this. The original intent was that there would be a public hearing prior to a cost survey being performed. HB 127 will reflect that original intent and require a public hearing. After the hearing, it will be decided whether to perform the cost survey. There is a prohibition on unearned rebates and it is not clear what was meant by the law. As far as he can tell, **Mr. Jensen** believes it was supposed to be an anti-kickback provision. Because the clause uses legal language from the 1930s, it reads to be a ban on all rebates.

The Personal Solicitation Act, also known as the door-to-door sales act, contained in Sections 14 through 20 of HB 127, has worked amazing well in Montana. The fastest growing problem in Montana is fraud against small businesses. Small businesses do not have the protection under door-to-door solicitation which a general consumer does. If the transaction is done door-to-door and is under \$5,000, businesses will now have the same rights and protections as normal consumers. Those rights will include the name of the business selling the product, contact information, and a three-day right to return the goods in their original state. Often times an employee will be contacted by telephone and asked if they would like to reorder toner, copy paper, or degreaser. The employee, thinking they are speaking with a business which their employer has a long-term business relationship with, reorders. When the product arrives, the business is billed an amount way in excess of what the products

would normally sell for. The only option a business currently has is to file a full-blown lawsuit, often in a different jurisdiction.

The telemarketing provisions and the lemon law provisions have been amended out, since they were addressed in other bills.

**Opponents' Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. O'NEIL** inquired if the bill would provide for injunctive relief in justice court.

**Mr. Jensen** stated an injunction is sought by a state office, and they still have to go to district court. He did not believe a private right of action would normally have injunctive relief. In Section 5, the bill provides for private right of action in monetary damages and equitable relief. He is not sure it would provide for full injunctive relief.

**SEN. PERRY** noted page 4, Section 4, it appears that state attorney fees and costs were stricken in lines 22 and 23 and not changed in the title.

**Mr. Jensen** stated it appears the title did not reflect the change and should be changed.

**SEN. PERRY** noticed the language in Section 5, page 5, lines 10 and 11 and asked if the state prevails then the state is covered and would be able to retrieve reasonable attorney fees.

**Mr. Jensen** responded that was correct. The reason the state normally does not prevail under that part is because it usually does not bring the cases under 30-14-133. Most of the time brings the action for injunctive relief under a different section and that section does not provide for attorney fees.

**SEN. WHEAT** reads Section 5 as providing a remedy for a consumer to bring an individual action. All the sections that flow after that refer to the individual who brings the claim. The only what the state can recover attorney fees under section 5 would be if it, in fact, is the consumer.

**Mr. Jensen** stated that would be true, although there are other sections of Montana law that list this section as the section the state is supposed to bring the claim under.

**SEN. WHEAT** felt this was inconsistent because the state would be bringing a claim on behalf of the individual consumer.

**Mr. Jensen** agreed with **SEN. WHEAT's** analysis.

**Closing by Sponsor:**

**Rep. Fritz** closed the hearing on HB 127.

**HEARING ON HB 618**

**Sponsor:**           **Rep. Sue Dickenson, HD 47, Great Falls.**

**Proponents:**       **Sen. Mike Cooney, SD 26, Executive Director of  
Healthy Mothers, Healthy Babies  
Al Recht, Cascade County DUI Task Force  
Dan Smrdel, Cascade County Deputy  
Virginia Caplette, Gallatin County DUI Task Force**

**Opponents:**       **None.**

**Opening Statement by Sponsor:**

**Rep. Dickenson** explained HB 618 will double the driver's license reinstatement fee for an arrest of driving under the influence of alcohol or drugs, vehicular assault, or other vehicular crimes. This will raise the reinstatement fee from \$100 to \$200. This bill is about keeping local DUI Task Forces up and operating and doing the good work they have done for the last six years. Fifty percent of the reinstatement fee goes to the local DUI prevention programs. **Rep. Dickenson** explained that DUI Task Forces are groups of local citizens who ban together and put together plans to take care of the DUI problem. This plan is submitted to the County Commission for approval and submitted to the Governor. The plan contains a budget, financial report, and an annual report to the County Commission. There are currently 21 DUI Task Forces in 23 counties in Montana. These Task Forces educate and promote safe options to drinking and driving. They also assist law enforcement in keeping the roads and streets safe in their community. DUI Task Forces work in conjunction with other community programs. DUI Task Forces have only local strings and are tailored to fit each community. **Rep. Dickenson** explained if a person is arrested for DUI and refuses to take a blood or breath test, they have to forfeit their license. Under present law, a person must pay a \$100 reinstatement fee, 50 percent of which must be appropriated to county drinking and driving prevention programs. **Rep. Dickenson** read from a letter received from Dave Galt, Director of the Department of Transportation, explaining no funding was received for 2003 biennium and there is

no appropriation in the budget to distribute funds. This budget crisis has deprived the DUI Task Forces of their funding and without the funding, the Task Forces will cease to exist. Recognizing the general fund woes, **Rep. Dickenson** is bringing HB 618 to fund these Task Forces.

**(Tape : 2; Side : B)**

**Rep. Dickenson** offered Amendment HB061801.alk, **EXHIBIT(jus54a06)**, for the Committee's consideration. This amendment would require an adjustment to the fiscal note. **Rep. Dickenson** feels the higher reinstatement fee will be a deterrent to drinking and driving and will make the roads safer.

**Proponents' Testimony:**

**Sen. Mike Cooney, SD 26, is the Executive Director of Healthy Mothers, Healthy Babies**, which is dedicated to improving the lives of families throughout Montana. **Sen. Cooney** is also the involved in Safe Kids, Safe Communities project which is also involved occupant protection and impaired driving programs throughout Montana. **Sen. Cooney** supports HB 618 and any effort to provide additional funding to local communities to solve problems with impaired driving issues.

**Al Recht, representing the Cascade County DUI Task Force**, stated HB 618 is critical to the continuing operation of Task Forces throughout the state of Montana. The mission of the Task Force is to assist law enforcement and educate the public. In addition, Task Forces advocate for tougher drunk driving laws. Reinstatement fees are the lifeblood of the DUI Task Forces. The Task Force in Great Falls is also assisting Malstrom Air Force Base. In Great Falls, the police department recently performed a compliance check which showed out of 18 establishments, 9 sold to underage individuals. Volunteers are on standby to transport military personnel safely back to base. In 2002, 1,048 were transported from somewhere in Great Falls back to Malstrom Air Force Base. **Mr. Recht** feels this prevented numerous accidents. In addition, the Task Force advertises in both high schools' newspapers. PSC announcements advocate drinking responsibility. All these things are made possible because of reinstatement fees. They also work with the Native American population and the Tavern Association in Cascade County. They understand drinking is not a problem, but it is drinking and driving that is the problem. The Cascade County DUI Task Force would like to work with other programs and agencies in the communities. **Mr. Recht** urged the Committee to support the bill, adding passing the bill would be great, but the appropriate must be made.

**Dan Smrdel, a deputy for Cascade County,** sits on the Cascade County DUI Task Force, and testified the Task Force has been very effective in assisting law enforcement. The Task Force has purchases equipment which has assisted prosecutors in obtaining convictions. In a given year, they will process 600 people through the DUI processing center. These include persons arrested by the Montana Highway Patrol, Cascade County Sheriff's Department, and the Great Falls Police Department. In addition, the Task Force will fund the use of reserve deputies to concentrate on underage drinkers. The funding is drying up, and **Mr. Smrdel** feels it would be a shame to lose this program.

**Virginia Caplette, representing the Gallatin County DUI Task Force,** submitted a summary of the work done by the Gallatin County Task Force, **EXHIBIT(jus54a07)**. **Ms. Caplette** feels it takes consistent long-time effort and a consistent showing of the message before people start hearing the message and begin wanting to be involved.

The DUI Gallatin County Task Force has members who have been on the Task Force for nine years. Many of their members are professionals in the field who cannot speak out on their own about the issue because of job constraints. The DUI Task Force speaks for these individuals. The DUI Task Force is a self-funded program and she was under the impression reinstatement fees were created to fund DUI Task Forces. Initially, this was a \$50 reinstatement fee and was then increased to \$100. Therefore, **Ms. Caplette** feels there is precedent for increasing the fee. **Ms. Caplette** read a letter from a former drinker and driver in Bozeman which spoke about using seed money from the DUI Task Force to support other programs. Another project supported by the DUI Task Force in Bozeman is CAT CAB which is a one dollar ride program. This program has been so successful, it cannot provide enough rides. They also fund overtime patrols on holidays. Parent Party Patrol is a program they fund to aid parents in intervening in teen drinking. Bozeman also has a MIP program requiring parents to attend the program with their children. **Ms. Caplette** feels this is going to be a powerful program. **Ms. Caplette** is committed to seeing these programs remain operational.

**Opponents' Testimony: None.**

**Questions from Committee Members and Responses:**

**CHAIRMAN GRIMES** gave thought to coordination of HB 618 with SB 37, and asked **Rep. Dickenson** how she would feel about striking the increase, because of the penalty increases in SB 37, but retaining the 50/50 split.

**Rep. Dickenson** felt if SB 37 passes, and it retains the 50 percent split and puts the money into the special revenue account to be appropriated to the Task Forces, she would not have a problem with leaving the initial reinstatement fee at \$100. **Rep. Dickenson's** biggest concern is she does not want to lose the funds in the turmoil of HB 2 and what will and will not be appropriated. Increasing the initial revocation and reinstatement fee from \$100 to \$200 might be a bigger deterrent to a person getting that first DUI. **Rep. Dickenson** repeated she would want to make sure her amendment is included, so 50 percent of those fees would definitely go to a state special revenue account.

**SEN. PERRY** is familiar with the Cat Cab program and stated it costs about \$20,000 a year which is approximately \$10 per ride. A rider is only required to pay \$1. **SEN. PERRY** questions students who have money to go get drunk, but then only pay \$1 to ride home. **SEN. PERRY** wondered if the \$20,000 could be better spent in another area of prevention, rather than encouraging college students to buy another drink since it will only cost them \$1 to get home.

**Ms. Caplette** felt this was not an either/or type of question and felt both approaches are needed. The reality is the students are our drinking, and they were out drinking before Cat Cab. It is an issue of education and there needs to be a lot of prongs when approaching the issue.

**SEN. PERRY** asked if, by passing HB 618, there would be more money available for Cat Cab.

**Ms. Caplette** responded she did not know whether a larger investment would be made in Cat Cab, although she speculated they would not. MSU is aware that Cat Cab needs to become a self-funded program and needs to be supported by the Tavern Association.

**SEN. PERRY** stated HB 197 and HB 618 are dealing with exactly the same issue regarding revocations and the reasons for revocations and suspensions of licenses. One bill needs just a little bit of money, and HB 618 has a considerable amount of funds available.

**Rep. Dickenson** was aware of other bills dealing with reinstatement fees when a license is seized for other reasons, although she did not know the details.

**SEN. PERRY** felt supporting HB 618 could help with HB 197.

**(Tape : 3; Side : A)**

**Rep. Dickenson** directed the Committee to the fiscal note and stated that she visited with **Sen. Zook** who was supportive of the amendment and felt they would be bringing in twice as much revenue and that 50 percent would go into a special revenue account. **Sen. Zook** had relayed he would not have any problem readjusting that general fund status sheet accordingly.

**SEN. McGEE**, in reviewing the fiscal note assumption No. 2, stated reinstatement fees in fiscal year 2002 was \$511,200 at the \$100 rate. If the rate is doubled for reinstatement and assuming the same number of reinstatement transactions, is reflected at \$1,022,400 for reinstatement fees for one year.

**Rep. Dickenson** stated \$511,000 is for the biennium so they would get twice as much if the fee were doubled.

**SEN. McGEE** stated for a given year it would be \$1,022,000 and one-half would go into the state special revenue account, or \$511,000.

**Rep. Dickenson** stated the Task Force has not had any funding for two years, so she feels this will help to make up for the Task Forces not receiving the money which they, by law, should have received. **Rep. Dickenson** bluntly questioned if **SEN. McGEE** was alluding to the fact that \$511,000 was a lot of money, but she did not see that as an extraordinary amount considering the work the Task Forces do. **Rep. Dickenson** speculated that wouldn't it be wonderful if in six years they could remove the provision because there is no longer a need for DUI Task Forces. She did not feel this was too much money for local groups and asked the Committee to keep in mind this money is spread throughout the state.

**SEN. McGEE** asked **Al Recht** when this bill first came forward if he was anticipating receiving the normal amount of funding they were used to receiving or if he was anticipating doubling the revenue which comes to his particular Task Force.

**Mr. Recht** responded that initially they wanted to maintain the level of funding they were receiving before. The \$100 reinstatement fee, with \$50 going to the state and \$50 going to the DUI Task Forces, was enabling them to get by. They realized, however, that there is a greater need out there. They are not trying to be greedy. He feels \$200 to get a driver's license back is fair. They also thought it would lessen the need of the state to keep that money.

**SEN. McGEE** asked if there were other programs out there equally demanding of the Legislature's attention and funding and why they



should give all the increase to DUI Task Forces, as opposed to mental health care.

**Rep. Dickenson** agreed there are many needs out there and the Legislature is struggling to figure out how to meet the needs of so many people in the state. She agreed it is a difficult process. **Rep. Dickenson** reiterated that DUI Task Forces are not trying to be greedy. Doubling the fee was a way to have these programs funded without being a drain on the general fund.

**SEN. McGEE** asked if the amendment were offered such that the DUI Task Forces were made whole from this point forward, referring to the \$255,000 level, and the amendment is not adopted, what would **Rep. Dickenson** want to happen to her bill.

**Rep. Dickenson** expressed that if the amendment is not adopted, she would like the bill to pass as is. She challenged the Committee to decide how valuable the programs are and how they can be legitimately funded in a reasonable way.

**SEN. McGEE** depicted the Legislature as being in a juggling act and that was the reason for his question.

**SEN. WHEAT** stated the way it is written, the funding is for county drinking and driving prevention programs. He wonders if this is broad enough to include treatment programs for people who get caught in the net early and treatment may be a valuable tool in getting that person back on the right track.

**Mr. Recht** is a firm believer in prevention. He feels if they were assured some level of funding and could work with treatment programs, they would do that. It would, however, depend on the funding level. Right now, they have not had any funds for two years. Therefore, they cannot begin to discuss treatment issues. **Mr. Recht** would be willing to talk to agencies about treatment.

Upon the same question from **SEN. WHEAT**, **Ms. Caplette** stated they are already working with the agencies that provide treatment, and clarified that none of these programs work by themselves, and they all have to work with each other. She is aware of the need for increased exposure for options for treatment other than through the judicial system. It is a matter of the level of funding. Her experience with her program is that they are frugal with how they spend their money. If there was an ability of having a bigger window, it would just be a matter of having seed money for a project. Their power is not in their ability to fund something, but rather in the ability to get a program going and enabling that program to seek matching grants and support by plugging it into the wider network of prevention programs.

**SEN. WHEAT** asked **Rep. Dickenson** if she would consider it a friendly amendment if the Committee added that the funding is for county drinking and driving prevention and treatment programs.

**Rep. Dickenson** stated she would consider it a friendly amendment because treatment is where it is at. The corrections budget spends millions on incarceration, and she feels treatment would be less expensive and more effective. She feels in conjunction with **Sen. Mahlum's** bill, they could maybe take hold of this problem. Currently, there are 21 DUI Task Forces in 23 counties. Increasing the amount and expanding the programs to include all the localities, would mean less money per group. Therefore, it may be difficult to include treatment.

**CHAIRMAN GRIMES** asked about parents being involved in Gallatin County's MIP program and the overall effectiveness of that program.

**Ms. Caplette** stated Butte was the first community to have that requirement. The program is not for first-time MIP offenders. It is a two-part class and the forum is designed to give people a broad view of the issue. The forum includes a parent with personal experience, law enforcement, an insurance agent, an emergency medical technician, and the facilitator. The second half of the class is with the youth only.

**CHAIRMAN GRIMES** asked **Ms. Caplette** to take a look at SB 362 and see how it affects her program.

**Closing by Sponsor:**

**Rep. Dickenson** asked the Committee to look beyond dollars and cents and look at the overall policy objectives. This will make the streets and roads safer. It will give these local groups who know local needs funding and flexibility to accomplish their goals. One in five Montanan's drink and drive, and **Rep. Dickenson** finds that statistic scary. She feels this issue needs to be taken serious. DUI Task Forces need to get solvent, since they are currently on shaky ground, before they can look at treatment options.

**(Tape : 3; Side : B)**

**HEARING ON HB 578**

**Sponsor:** Rep. Jim Shockley, HD 61, Victor.

**Proponents:** Jim Smith, Montana County Attorneys' Association,  
Montana Sheriffs' and Peace  
Officers' Association  
Ali Bovington, Department of Justice  
Jim Kembel, Montana Associations  
of Chiefs of Police  
Kristi Blazer, Montana Beer  
and Wine Wholesalers Association

**Opponents:** None.

**Informational Witnesses:** Beth Satre, Montana Coalition Against  
Domestic and Sexual Violence

**Opening Statement by Sponsor:**

**Rep. Jim Shockley** explained that HB 578 merely tweaks what is in statute already. **Rep. Shockley** hopes another bill, SB 39, will not pass the House and monies from that bill can be used to fund misdemeanor probation officers provided in HB 578. The language on line 14 will tie this offense into the federal code and if SB 39 dies, the money can be used to purchase these probation officers who can enforce the law. The counties cannot afford to hire these misdemeanor probation officers. There are provisions for misdemeanor probation officers, but no one ever hires them because they do not have the money. If people are on probation and are continuing to drink, their offenses escalate to the point of being felons. Hopefully, a misdemeanor probation officer will be able to stop this.

**Proponents' Testimony:**

**Jim Smith, representing the Montana County Attorneys' Association and the Montana Sheriffs' and Peace Officers' Association,** testified that the two organizations believe **Rep. Shockley** is onto something with this proposal. A couple of counties do have these positions funded and in place currently and are very satisfied with the work these local probation and parole officers are doing. **Mr. Smith** feels we should be tougher on misdemeanants and prevent them from migrating into felons. **Rep. Shockley** has ideas about funding and it rests on the fate of other legislation. **Mr. Smith** feels **Rep. Shockley** should be afforded every opportunity to get these positions funded. If **Rep. Shockley** is unsuccessful, **Mr. Smith** stated the organizations he

represents would be eager to work with him over the interim to develop a solid funding plan. **Mr. Smith** maintained they could do some good if these positions were created.

**Ali Bovingdon, representing the Department of Justice**, stated drinking and driving and resulting DUIs are a serious problem in Montana. HB 578 and the increased supervision of these offenders would, hopefully, prevent the repeat offender situation and will result in safer highways.

**Jim Kembel, representing the Montana Associations of Chiefs of Police**, talked about a repeat domestic disturbance occurrence resulting in a deputy and police officer being wounded. These types of incidents happen too often. In speaking on behalf of himself, **Mr. Kembel** works with the Friendship Center in Helena. He hopes tight supervision will reduce business at the Friendship Center.

**Kristi Blazer, representing the Montana Beer and Wine Wholesalers Association**, testified about legislating responsibility. The group of offenders at which this bill is directed, have shown they have no responsibility. This bill will be very effective because it will roust offenders out of the bars and keep them off the road. Repeat offenders need to be treated like children, and this bill will create a mechanism to do that.

**Opponents' Testimony:** None.

**Informational Testimony:**

**Beth Satre, representing the Montana Coalition Against Domestic and Sexual Violence**, feels getting more misdemeanor probation officers in our counties is a high priority for those working in domestic violence and sexual assault. The one thing the bill does which concerns **Ms. Satre** is there is no specific funding source attached. One of the issues they have is the two misdemeanor officers currently in place were put there by family violence councils that received grants and those officers concentrate on partner/family member assault misdemeanants. Without any protection in the bill for those already-existing programs would probably have to have their duties reassigned. **Ms. Satre** asked the Committee to consider an amendment to protect current programs. **Ms. Satre** feels the money used to fund these officers would not fund any probation officers already in place.

**Questions from Committee Members and Responses:**

**SEN. MANGAN** informed the Committee that the company he works for provides misdemeanor probation services. Specifically, one

grant focuses on domestic violence. **SEN. MANGAN** asked if **Rep. Shockley** would support an amendment that did not elevate one offense over another.

**Rep. Shockley** intends for the probation officers to supervise all individuals who commit misdemeanors. In order to get the funding, he needs to refer to primary DUI. If this bill is not here, **Rep. Shockley** feels the Code of Federal Regulations provides for it.

**Closing by Sponsor:**

**Rep. Shockley** closed the hearing and asked the Committee to pass the bill quickly.

**EXECUTIVE ACTION ON HB 578**

**Motion:** **SEN. PERRY** moved **HB 578 BE CONCURRED IN.**

**Discussion:**

**SEN. MANGAN** feels the bill will give direction to judges to ensure that if a DUI offender appears before them, that they should be considered for misdemeanor probation. He does not believe it will overlap domestic violence.

**SEN. O'NEIL** felt at least 95 percent of people who perpetuate domestic violence also drive under the influence of alcohol. Cutting down on one offense will probably result in a reduction of the other offense.

**SEN. MCGEE** asked **SEN. MANGAN**, if having misdemeanor probation for DUIs and forcing people to stay home to do their drinking could ultimately increase domestic violence.

**SEN. MANGAN** did not believe that would be the case. First of all, it is already in the statutes and they are already serving offenders. Misdemeanor probation officers are not just making sure offenders are not drinking in bars, they are ensuring they are not drinking at home as well. It is up to the individual program and probation officer to track an offender.

**Vote:** **SEN. PERRY's** motion **HB 578 BE CONCURRED IN** carried 7-0 with **SENATORS GRIMES** and **CROMLEY** not voting. **SEN. MANGAN** will carry HB 578 on the Senate floor.

EXECUTIVE ACTION ON HB 350

Motion: SEN. PERRY moved HB 350 BE CONCURRED IN.

Motion: SEN. PERRY moved Amendment HB035001.av1.,  
**EXHIBIT**(jus54a08) BE ADOPTED.

Discussion:

Ms. Lane explained the amendment was suggested by Pam Bucy, Department of Justice, to remove subsection (j) on page 2.

SEN. WHEAT stated subsection (j) is possession of precursors to dangerous drugs and that reference will be eliminated from the title as well.

Vote: SEN. PERRY's motion that Amendment HB035001.av1. BE ADOPTED carried 7-0 with SENATORS GRIMES and CROMLEY not voting.

Motion: SEN. MANGAN moved HB 350 BE CONCURRED IN AS AMENDED.

Vote: SEN. MANGAN's motion HB 350 BE CONCURRED IN AS AMENDED carried 8-0 with SENATOR GRIMES not voting. SEN. CROMLEY will carry HB 578 on the Senate floor.

EXECUTIVE ACTION ON HB 402

Motion: SEN. PERRY moved HB 402 BE CONCURRED IN.

(Tape : 4; Side : A)

Vote: SEN. PERRY's motion carried 8-0 with SENATOR GRIMES not voting. SEN. PERRY will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 478

Motion: SEN. WHEAT moved HB 478 BE CONCURRED IN.

Motion: SEN. MANGAN moved Amendment HB047801.av1,  
**EXHIBIT**(jus54a09) BE ADOPTED.

Discussion:

Ms. Lane explained the amendment removes language added in the House on page 3, line 23. It also removes the effective date by removing Section 3, causing the bill to have an effective date of October 1. Ms. Lane further explained that the change on page 4,

line 26, is because standard drafting procedure requires an applicability date on or after the effective date.

**SEN. McGEE** asked why the Committee wanted the language on line 23 stricken.

**Ms. Lane** remembered that suggestion was made by the sponsor and **Bob Throssell** because it waters down the effect of the bill if it allows for a provisional license.

**SEN. O'NEIL** wonders why they do not allow for a provisional license that would enable a person to go to work and feed their families.

**SEN. MANGAN** responded it is a penalty for noncompliance. An individual is afforded every opportunity to be responsible and not get to that point.

**Motion:** **SEN. O'NEIL** moved to segregate the amendment and that Instruction Nos. 1, 3, and 4 of **Amendment HB047801.avl** **BE ADOPTED**.

**Vote:** **SEN. O'NEIL's** motion that **Instruction Nos. 1, 3, and 4 of Amendment HB047801.avl** **BE ADOPTED** carried **UNANIMOUSLY**.

**Motion:** **SEN. O'NEIL** moved that **Instruction No. 2 of Amendment HB047801.avl** **NOT BE ADOPTED**.

**Discussion:**

**SEN. O'NEIL** feels this does not mandate the court to give a restricted or probationary license. However, if the court seeks it could be a hardship or cost a person their job, it should be an incentive. **SEN. O'NEIL** feels the court should have that discretion if it chooses to issue a probationary license.

**SEN. McGEE** asked **SEN. O'NEIL** to keep in mind that this is not the first time the individual has come before the court, but is that because he has failed to comply with the penalties, restrictions, and conditions of a sentence.

**SEN. PERRY** agreed it may be the second time before a judge; however, we are adding the suspension or driving privilege, but he agrees with allowing the court the option. A person still needs to have the ability to function in their job to support their family and pay taxes. **SEN. PERRY** did not recall this being a significant issue during testimony.

**SEN. MCGEE** told about driving an individual, who lost his driver's license because of drinking and driving, to work every day. Therefore, **SEN. MCGEE** feels there are ways a person can get around.

**SEN. MANGAN** pointed out the incentive is to comply with the penalty, restriction, or condition. This penalty, restriction, or condition could have been a number of things. The responsibility is on the offender and the incentive is to comply with that restriction. The last thing a judge wants to see is the same people back in court.

**SEN. WHEAT** knows in a lot of cases a judge will work with people of limited means and allow for payments to be made on an installment plan. There are a lot of ways for people to be responsible and take care of these things. The courts need this kind of hard hammer to get compliance. **Ms. Nordland** testified 45 percent of license suspensions involve nonpayors.

**SEN. O'NEIL** feels taking a driver's license away so an individual cannot go to work, will compound the nonpayment issue rather than solve the problem. **SEN. O'NEIL** was not stating this should always happen, but he does feel it is a tool that should not be taken away from a judge.

**SEN. MCGEE** pointed out to the Committee the use of the word "may" on line 20.

**SEN. PERRY** felt since the word "may" is used, the judge has the option of either zero action regarding the license or up to suspension. He wonders what penalties fall in between those two penalties.

**SEN. WHEAT** feels it will allow the judge to use the driver's license suspension as a hammer and that is how he perceives it would be used.

**SEN. O'NEIL** feels a judge would be more likely to suspend a license if he could issue a provisional license and allow the person to work.

**Vote:** **SEN. O'NEIL's** motion that instruction No. 2 of **Amendment HB047801.av1 NOT BE ADOPTED failed 1-6** with **Sen. O'Neil** voting aye.

**Motion:** **SEN. WHEAT** moved **HB 478 BE CONCURRED IN AS AMENDED.**



**Vote:** SEN. WHEAT's motion that HB 478 BE CONCURRED IN AS AMENDED carried UNANIMOUSLY. SEN. WHEAT will carry HB 478 on the Senate floor.

**EXECUTIVE ACTION ON HB 480**

**Motion:** SEN. MANGAN moved HB 480 BE CONCURRED IN.

**Discussion:**

SEN. PERRY stated lines 18 through 24 now reflect current law.

SEN. PERRY stated Section 61-7-104 is damage to a vehicle, i.e., hit and run with no injury. Section 61-7-105 is leaving the scene without giving aid to the injured. Section 61-7-106 is hitting an unintended vehicle and leaving the scene. If someone leaves the scene of an accident without rendering aid to an injured person should have a higher penalty in order to be a deterrent.

SEN. MANGAN liked the language stricken by the House that has higher penalties. SEN. MANGAN reminded the Committee that in the last session a bill was passed which contained a provision for confiscating a driver's license if a motorist drove off without paying for gasoline. Here, you drive away from an accident, and you get a \$10 fine. SEN. MANGAN feels penalties need to be balanced.

SEN. O'NEIL asked if these penalties would apply to an individual leaving the scene even if that individual did not cause the accident.

SEN. McGEE replied the bill deals with a driver hitting another vehicle. It is not a Good Samaritan law.

Ms. Lane explained all three sections, 61-7-104, 61-7-105, 61-7-107 begin with the phrase "the driver of any vehicle involved in an accident." Therefore, it would not include driving by an accident on the side of the road.

SEN. O'NEIL asked if it included Section 61-7-114.

***(Tape : 4; Side : B)***

**Motion:** SEN. MANGAN moved HB 480 be amended by striking the House language on lines 18 through 26 and reverting back to the introduced version of the bill.

**Discussion:**

**SEN. O'NEIL** asked if on line 12 it would be less than \$10 or \$200.

**SEN. McGEE** replied it would be less than \$200. He was followed by **Ms. Lane** explaining the amendment will cause the bill to be amended so it will appear as it did in its introduced version.

**SEN. PERRY** is fine with taking the bill back to its introduced form because it does increase the penalties. **SEN. PERRY** pointed out, however, under Section 61-7-105 has no higher penalty than striking a fixture on a highway, and he feels that issue should be addressed and the penalty should be severely higher.

**Vote:** **SEN. MANGAN's** motion that HB 480 be amended by striking the House language on lines 18 through 26 and reverting back to the introduced version of the bill **carried UNANIMOUSLY.**

**Motion:** **SEN. MANGAN** moved **HB 480 BE CONCURRED IN AS AMENDED.**

**Discussion:**

**SEN. WHEAT** stated he appreciates **SEN. PERRY's** attempt to make the penalties commensurate with the crime committed, and stated he feels this might warrant taking some time on the bill.

**SEN. PERRY** stated having reviewed the bill and the code, he has found some inconsistencies that have been overlooked. The bill will require a coroner be fined \$200 if he fails to report a death within ten days, however, there is no fine assessed if another officer fails to report a death. **SEN. PERRY** would like some time to address these inconsistencies.

**SEN. McGEE** appointed **SEN. PERRY** and **SEN. MANGAN** to present appropriate language to the Committee.

**Motion:** **SEN. MANGAN** withdrew his motion.

**EXECUTIVE ACTION ON HB 618**

**Motion:** **SEN. MANGAN** moved **HB 618 BE CONCURRED IN.**

**Motion:** **SEN. MANGAN** moved **Amendment 61801.alk BE ADOPTED.**

**Discussion:**

**SEN. MANGAN** explained the amendment will create a special revenue account for one half of the money for the sole purpose of funding the DUI Task Forces around the state. **SEN. MANGAN** feels it is a good amendment.

**SEN. McGEE** stated the reality is that in years gone by, prior to 2001, using the same number of reinstatement fees just for argument's sake, the Task Forces received roughly \$255,000. With the amendment, coupled with the increase in the fees, instead of \$255,000 going to Task Forces, they will receive \$511,000. The amendment will double the revenue sent to the Task Forces.

**SEN. PERRY** agreed the revenue would be doubled and based on the testimony of **Mr. Recht**, they were not entirely looking for their funding to be doubled. **SEN. PERRY** thinks doubling the reinstatement fee is consistent with the other penalty increases in SB 37. He feels some of these funds then could be diverted to satisfy some needs in HB 197. **SEN. PERRY** believes they could kill two birds with one stone.

**SEN. McGEE** stated if the amendment stated one quarter, rather than one-half, then those Task Forces could be made whole at 25 percent, because they would still receive \$255,000. The arguments heard from the Task Forces were that they are getting low in money, not out of money. This would indicate they are already being funded at an appropriate level.

**SEN. WHEAT** stated in the short time that he has been in the Legislature, it is obvious to him that the state does not want to fund these local programs. They have heard testimony about how people are getting involved. The Legislature has talked about dealing with all issues around DUI, and this bill goes back to where we need to be putting funds-in prevention. **SEN. WHEAT** does not care that the funding to the Task Forces is doubled because, in his opinion, that is where the funding needs to go. These programs will accomplish the things the Legislature and the Judiciary Committee want to have done. This funding will allow the communities to keep the programs in their local communities where they are working.

**SEN. McGEE** asked **SEN. WHEAT** to keep in mind there are other things they need to fund here.

**SEN. GRIMES** stated raising the penalties in HB 618, coupled with the revenue gained from increasing the penalties in SB 37, will create a good source of revenue. He would like to see this money go to DUI programs, prevention treatment, and problems the state

is facing with use of methamphetamine use. **SEN. GRIMES** was concerned about how this bill with the amendment would be coordinated with SB 37.

**Ms. Lane** explained that on page 2 of SB 37, and the amendments to 61-2-107, there is no conflict and the two bills could be codified as is without a coordination instruction. The result would be that the \$100 would be increased to \$200, but would apply only to all other kinds of reinstatements, not alcohol-related reinstatements. The alcohol-related reinstatements would be \$100, \$300, and \$500, and then the amended version of HB 618 would require one-half of that reinstatement fee to go to the general fund and one half to a special revenue account.

**SEN. MCGEE** urged the Committee to remember when money is placed in a special revenue account, that money cannot be used for other things. There are other issues before the Legislature. If, for example, you wanted to use that money for treatment, you would not be able to do so. **SEN. MCGEE** was not saying all of the money should go to general fund, but feels that is where the Legislature will have the liberty to do something with the money.

**SEN. MANGAN** stated he would be glad to withdraw his two motions and coordinate the bill with SB 37.

**SEN. GRIMES** felt the best thing to do was take language out of SB 37 and amend it into HB 618 with direction as to where the fines will go.

**SEN. WHEAT** is an advocate for treatment and prevention. He hopes there is a way the money can get diverted for treatment and would like time to discuss that option.

**Motion: SEN. MANGAN withdrew his motions that HB 618 BE AMENDED and BE CONCURRED IN.**

**SEN. MANGAN** asked for an opportunity to coordinate with SB 37. He will work with the sponsor of HB 618, **Rep. Dickenson**.

**ADJOURNMENT**

Adjournment: 11:57 A.M.

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SEN. DUANE GRIMES, Chairman

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CINDY PETERSON, Secretary

DG/CP

**EXHIBIT** (jus54aad)